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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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IM22/0928

EXAMINER	
BECKER, D	
ART UNIT	**PAPER NUMBER**
1761	8

DATE MAILED: 09/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/241,508	Evans et al
Examiner	**Group Art Unit**
Drew Becker	1761

☒ Responsive to communication(s) filed on *Jul 26, 2000*.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-59* is/are pending in the application.

Of the above, claim(s) *58* is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-57 and 59* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). *6*

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 41 and 48-52 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2195892A.

FR 2195892A teach a method of cutting dough by conveying the dough (Figure 4, 2), engaging the dough with a rotatable blunt surface to form a depression (Figure 4, 5b), a deeper depression formed by a second rotatable blunt surface (Figure 4, 5c), then severing the dough in the depression at a third location along the conveyor with a third rotatable blunt surface (Figure 4, 5d). Although not specifically mentioned, the blunt dough cutting method of FR 2195892A would inherently pull and stretch of the dough surface since this is a necessity which is met when nearly any material is cut.

3. Claim 53 is rejected under 35 U.S.C. 102(b) as being anticipated by Makowecki [Pat. No. 5,587,638].

Makowecki teaches a method of cutting dough by use of a rotary drum with plural cells (Figure 3, #30 & 38) and an outer cutting edge with an inner blunt portion (Figure 5, #39 & 41).

Although not specifically mentioned, the blunt dough cutting method of Makowecki would inherently pull and stretch of the dough surface since this is a necessity which is met when nearly any material is cut.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 5-7, 11-23, 25, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892A.

FR 2195892A teach a method and apparatus for cutting dough by conveying the dough (Figure 4, 2), engaging the dough with a rotatable blunt surface to form a depression (Figure 4, 5b), a deeper depression formed by a second rotatable blunt surface (Figure 4, 5c), then severing the dough in the depression at a third location along the conveyor with a third rotatable blunt surface (Figure 4, 5d), the rotatable blunt surfaces being of decreasing width (Figure 3, 5b-c), and the rotatable blunt surfaces having different thicknesses near their radial edges forming a rounded shoulder (Figure 3). Although not specifically mentioned, the blunt dough cutting method of FR 2195892A would inherently pull and stretch of the dough surface since this is a necessity which is met when nearly any material is cut. It would have been obvious to one of ordinary skill in the art to vary the dimensions of the rotatable blunt surfaces of FR 2195892A since

FR 2195892A teaches different thickness and diameters (Figure 3, 5b-d; Figure 5; 7a-c) and since this type of optimization would have been done during the course of normal experimentation. Regarding claim 23, it would have been obvious to one of ordinary skill in the art to raise one of the inner cutters (Figure 5, 7c) and thereby impress a pattern with the rotatable blunt surface of the first two rotatable blunt surfaces (Figure 5, 7a-b) since the pressing of a pattern into a dough was commonly known, as evidenced by EP 841009A2 (Figure 6, 31).

6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Orlando [Pat. No. 4,808,104].

D'Orlando teaches a method for cutting dough with a cutter having a blunt dough engaging portion with a cutting edge (Figure 2, 14; column 3, line 11) and a corner (Figure 2, 13). It would have been obvious to one of ordinary skill in the art to vary the dimensions of the blunt dough engaging surface of D'Orlando since dough products were commonly made of different thicknesses and sizes; and since this type of optimization would have been done during the course of normal experimentation.

7. Claims 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makowecki.

Makowecki teaches a method of cutting dough by use of a rotary drum with plural cells (Figure 3, #30 & 38) and an outer cutting edge with an inner blunt portion (Figure 5, #39 & 41). It would have been obvious to one of ordinary skill in the art to vary the dimensions of the blunt dough engaging surface of Makowecki since dough products were commonly made of different

thicknesses and sizes; and since this type of optimization would have been done during the course of normal experimentation.

8. Claims 8, 26, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892A as applied above, in view of Makowecki.

FR 2195892A teach the above mentioned concepts. FR 2195892A do not teach a rotatable drum with plural cutting cells. Makowecki teaches a method of cutting dough by use of a rotary drum with plural cells (Figure 3, #30 & 38). It would have been obvious to one of ordinary skill in the art to incorporate the drum and cells of Makowecki into the invention of FR 2195892A since both are directed to methods of cutting dough, since FR 2195892A teach rotary cutters which cut a pattern into the dough (Figure 2, #5b-d & 7a-c), and since rotary drum with cells of Makowecki would eliminate the need for multiple cutters as used by FR 2195892A thus eliminating the need to synchronize multiple cutters.

9. Claims 9-10, 27-28, 44, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892A as applied above, in view of Simelunas [Pat. No. 4,534,726].

FR 2195892A teach the above mentioned concepts. FR 2195892A do not teach a walking head which is reciprocally mounted. Simelunas teaches a method of cutting dough by use of a reciprocally mounted, walking head (column 5, line 66 to column 6, line 21). It would have been obvious to one of ordinary skill in the art to incorporate the reciprocally mounted, walking head of Simelunas into the invention of FR 2195892A since both are directed methods of cutting dough and since the reciprocally mounted, walking head of Simelunas would eliminate the need

for multiple cutters as used by FR 2195892A, thus eliminating the need to synchronize multiple cutters.

10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892 A as applied above, in view of EP 841009A2.

FR 2195892A teach the above mentioned concepts. FR 2195892A do not teach a perforator which alternately depresses and cuts the dough. EP 841009A2 teach a method of cutting dough by alternately depressing and cutting the dough (column 5, lines 41-47). It would have been obvious to one of ordinary skill in the art to incorporate the alternate depressing and cutting of EP 841009A2 into the invention of FR 2195892A since both are directed to methods of cutting dough, since FR 2195892A uses rotary cutters, and since EP 841009A2 teach that this type of cutting produces a rustic and home-made appearance to the dough, which is appealing to the consumer (column 5, lines 38-41).

11. Claims 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892A as applied above, in view of Funabashi et al [Pat. No. 4,608,918].

FR 2195892A teach the above mentioned concepts. FR 2195892A do not teach an outer cutting edge and inner blunt edge, particular shapes, and a movable head. Funabashi et al teach a dough cutting method using a head (Figure 4, 1) with an inner blunt portion (Figure 4, 3) and an outer cutting edge (Figure 4, 2). It would have been obvious to one of ordinary skill in the art to incorporate the head of Funabashi et al into the invention of FR 2195892A since both are directed to methods of cutting dough and since Funabashi et al teach the cutting and sealing of

the two dough surfaces can be accomplished in a single pressing step (column 1, lines 54-58). It would have been obvious to one of ordinary skill in the art to vary the shapes of Funabashi et al since baked goods have been produced in a multitude of different shapes and sizes and since differing types of shapes and designs imprinted on a baked good add to consumer appeal as evidenced by EP 841009A2 (column 5, lines 38-41).

12. Claims 38 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892A and Makowecki as applied above, in view of EP 841009A2.

FR 2195892A and Makowecki teach the above mentioned concepts. FR 2195892A and Makowecki do not teach imprinting a pattern. EP 841009A2 teach imprinting a pattern in dough (Figure 3). It would have been obvious to one of ordinary skill in the art to impress patterns as taught by EP 8410096A2 in the invention of FR 2195892A since both are directed to methods of cutting dough and since EP 8410096A2 teach the increased consumer appeal produced (column 5, lines 38-41).

13. Claims 39-40, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2195892A and Simelunas as applied above, in view of EP 841009A2.

FR 2195892A and Simelunas teach the above mentioned concepts. FR 2195892A and Simelunas do not teach imprinting a pattern. EP 841009A2 teach imprinting a pattern in dough (Figure 3). It would have been obvious to one of ordinary skill in the art to impress patterns as taught by EP 8410096A2 in the invention of FR 2195892A since both are directed to methods of cutting

dough and since EP 8410096A2 teach the increased consumer appeal produced (column 5, lines 38-41).

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Taylor et al [Pat. No. 5,375,509] teach a method of cutting dough with blunt rotary wheels.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew Becker whose telephone number is (703)-305-0300. The examiner can normally be reached on Monday-Thursday from 7:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached on (703)-308-0756. The fax number for this Group is (703)-305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

KEITH HENDRICKS
PRIMARY EXAMINER

Drew Becker

September 21, 2000